

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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In re Applications of) MM DOCKET NO. 93-75
)
TRINITY BROADCASTING OF FLORIDA,) File No. BRCT-911001LY
INC.)
)
For Renewal of License of)
Station WHFT(TV) on Channel 45,)
Miami, Florida)
)
and)
)
GLENDALE BROADCASTING COMPANY) File No. BPCT-911227KE
)
For a Construction Permit for a)
New Commercial TV Station to)
operate on Channel 45, Miami,)
Florida)

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To: The Review Board

STATEMENT IN SUPPORT OF INITIAL DECISION
AND CONTINGENT EXCEPTIONS AND BRIEF

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TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	ii
SUMMARY.....	iii
I. STATEMENT OF THE CASE.....	1
II. QUESTIONS OF LAW PRESENTED.....	5
III. ARGUMENT.....	5
A. Ascertainment.....	5
B. Local Programming.....	8
C. Failure to Cover Important Issues.....	10
D. Nonresponsive Programming.....	16
IV. CONCLUSION.....	19

TABLE OF AUTHORITIES

<u>Trinity Broadcasting of Florida, Inc.</u> , 8 FCC Rcd 2475 (1993)...	2
<u>Trinity Broadcasting of Florida, Inc.</u> , FCC 95D-13 (released November 6, 1995).....	<u>passim</u>
<u>Memorandum Opinion and Order</u> , FCC 93M-469 (released July 15, 1993).....	3
<u>Memorandum Opinion and Order</u> , FCC 93M-631 (released October 4, 1993).....	3

SUMMARY

The conclusions of the Initial Decision that Trinity Broadcasting of Florida, Inc. (TBF) is not qualified to remain a Commission licensee while Glendale Broadcasting Company (Glendale) is fully qualified to be a Commission licensee must be affirmed. The decision is fully supported by the record evidence and by applicable precedent. If it is necessary for the Review Board to reach the question of whether TBF is entitled to a renewal expectancy (and Glendale does not believe it is necessary), the Board must take into consideration certain findings of fact in addition to the findings made in the Initial Decision.

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To: The Review Board

**STATEMENT IN SUPPORT OF INITIAL DECISION
AND CONTINGENT EXCEPTIONS AND BRIEF**

Glendale Broadcasting Company (Glendale), by its attorneys, now submits this statement in support of the Initial Decision of Administrative Law Judge Joseph Chachkin, FCC 95D-13 (released November 6, 1995) granting Glendale's application for a construction permit for a new television station on Channel 45 at Miami, Florida and denying the mutually exclusive application of Trinity Broadcasting of Florida, Inc. (TBF) for the renewal of license of WHFT(TV), Miami, Florida. Included with this statement are contingent exceptions and a brief. If no other exceptions are filed, these exceptions may be dismissed.

I. STATEMENT OF THE CASE

This proceeding involves TBF's application for renewal of the license of commercial television station WHFT, Miami, Florida, and Glendale's mutually exclusive application for a construction permit for a new television station on Channel 45 at Miami, Florida. By Hearing Designation Order, 8 FCC Rcd 2475 (1993), the Commission designated the applications for hearing on the following basic qualifications issues:

(a) To determine whether Paul F. Crouch, Trinity Christian Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network (TBN) or its affiliates exercised de facto control over National Minority TV, Inc. (NMTV).

(b) To determine whether NMTV, Paul F. Crouch, TBN or its affiliates or principals abused the Commission's processes by using NMTV to evade the provisions of Section 73.3555(e) of the Commission's Rules and/or by using NMTV to improperly claim minority preferences in LPTV applications.

(c) To determine, in light of the evidence adduced pursuant to issues (a) and (b), whether Trinity Broadcasting of Florida, Inc., is qualified to remain a Commission licensee.

The Administrative Law Judge later added the following issues against Glendale:

To determine whether Raystay Company made misrepresentations or lacked candor in low power television applications for extensions of broadcast construction permits and, if so, the effect thereof on Glendale Broadcasting Company's qualifications to be a licensee.

To determine whether Raystay Company made misrepresentations or lacked candor in its application to assign the construction permit of low power television station W23AY, Red Lion/York, Pennsylvania (BAPTTL-920114IB), and, if so, the effect thereof on Glendale Broadcasting Company's qualifications to be a licensee.

Memorandum Opinion and Order, FCC 93M-469 (released July 15, 1993), Memorandum Opinion and Order, FCC 93M-631 (released October 4, 1993).

In the Initial Decision, Judge Chachkin held that in light of the "egregious misconduct" by TBF's principals, "TBF's disqualification and the loss of its license is mandated." I.D., ¶333. Judge Chachkin held, "The findings overwhelmingly establish that TBN exercised de facto control over NMTV from NMTV's inception and that TBN intentionally used NMTV to abuse the Commission's processes." I.D., ¶301. In contrast, he concluded that neither George Gardner, Glendale's majority stockholder, nor Raystay Co. (Raystay) misrepresented facts or lacked candor in certain applications filed with respect to low power television construction permits. I.D., ¶¶335-358. Indeed, with respect to the second Glendale issue, which involved an application to assign a low power construction permit, the Presiding Judge found there was no false statement in the application. I.D., ¶358.

The Initial Decision is an accurate, well reasoned, and complete document. It persuasively demonstrates that TBF and its principals are totally unfit to be licensees of the

Commission because of their egregious misconduct. The decision exhaustively analyzes the total control TBN exercised over NMTV and how those entities repeatedly concealed the true nature of their relationship from the Commission. In contrast, the record developed under the Glendale issues shows that George Gardner, the common link between Glendale and Raystay, acted manifestly in good faith with respect to the applications in question under those issues. Indeed, there is no evidence that anyone associated with Raystay made any attempt to deceive the Commission in any of those applications. With respect to all of the qualifying issues, Glendale fully supports the Presiding Judge's resolution of those issues, and it urges the Review Board to totally affirm the Initial Decision.

The only exceptions Glendale has to the Initial Decision concerns the failure of the Presiding Judge to make certain findings of fact with respect to TBF's renewal expectancy showing. These exceptions should in no way be taken as a criticism of the Initial Decision. Indeed, these exceptions are wholly nondecisional if the Board affirms the Presiding Judge's resolution of the qualifications issues, as Glendale believes it must. These contingent exceptions are being offered solely for preserving the record in case it ever becomes necessary to render a decision concerning TBF's renewal expectancy showing.

II. QUESTION OF LAW PRESENTED

Are certain additional findings of fact necessary to present a complete record concerning TBF's entitlement to a renewal expectancy?

III. ARGUMENT

The Presiding Judge did not reach any conclusions concerning TBF's entitlement to a renewal expectancy because it was not basically qualified. I.D., P. 43 n.51. Glendale fully supports that conclusion. If, for some reason, it becomes necessary to reach the question of whether TBF is entitled to a renewal expectancy, it is Glendale's position that TBF is not entitled to a renewal expectancy. In order to fully evaluate the record concerning renewal expectancy, the Board must consider additional findings of fact in addition to the findings of fact contained in ¶¶142-209 of the Initial Decision.

A. Ascertainment

Paragraphs 143-147 of the Initial Decision describe the methodology used by TBF to ascertain community needs and interests. In several cases, the list of top issues contained in TBF's quarterly reports does not match the list of top issues listed in TBF's quarterly reports. Under TBF's ascertainment methodology, the issues that were mentioned most often from the various sources were considered the most important community issues. TBF/Glendale Joint Ex. 4, P. 1. In several instances, however, the issues listed in TBF's

quarterly report were not the issues that were listed most often on TBF's ascertainment sheets (TBF/Glendale Joint Ex. 2). In the instances listed below, there are discrepancies between the quarterly reports and the ascertainment sheets. In other words, issues that would have been one of the top issues if TBF had followed its own ascertainment procedures were not listed as one of the top issues. Issues marked with an asterisk are instances where issues listed in the quarterly reports were not top community issues as shown by TBF's ascertainment tabulations.

Fourth Quarter 1987 Quarterly Report
(TBF Ex. 33, Tab H, P. 72)

AIDS
 Cost of Living/Inflation
 Crime
 Drugs/Alcohol
 Education*
 Health Care
 Transportation
 Youth/Children

Fourth Quarter 1987 Ascertainment Tabulations
(TBF/Glendale Joint Ex. 2, P. 4)

Drugs/Alcohol Abuse (33 mentions)
 Crime (21)
 Health Care (20)
 Cost of Living/Inflation (18)
 AIDS (18)
 Transportation (17)
 Pollution/Environment (16)*
 Youth/Children (15)

First Quarter 1988 Quarterly Report
(TBF Ex. 33, Tab H, P. 97)

AIDS
 Cost of Living/Inflation*
 Crime
 Discrimination/Minority Groups
 Drugs/Alcohol Abuse

Education/Schools
Growth/Population
Health Care*

First Quarter 1988 Ascertainment Tabulations
(TBF/Glendale Joint Ex. 2, P. 5)

Drug/Alcohol Abuse (25 mentions)
Crime (23)
Youth/Children (17)*
Discrimination (16)
Education/Schools (15)
Population/Growth (13)
AIDS (13)
Traffic (8)*

Third Quarter 1988 Quarterly Report
(TBF Ex. 33, Tab H, P. 137)

Crime
Discrimination/Ethnic Groups
Drugs/Alcohol Abuse
Education/Schools
Growth/Population
Health Care
Pollution/Environment*
Senior Citizens/Aging

Third Quarter 1988 Ascertainment Tabulations
(TBF/Glendale Joint Ex. 2, P. 6)

Crime (27)
Drug/Alcohol Abuse (24)
Health Care (16)
Education/Schools (15)
Transportation/Traffic (12)*
Discrimination/Minority Groups (9)
Growth/Population (8)
Senior Citizens/Aging (8)

Second Quarter 1989 Quarterly Report
(TBF Ex. 33, Tab H, P. 204)

Cost of Living/Inflation/Poverty*
Crime
Drugs/Alcohol Abuse
Education/Schools*
Gun Control*
Pollution/Environment

Second Quarter 1989 Ascertainment Tabulation
(TBF/Glendale Joint Ex. 2, P. 9)

Health Care (36 mentions)*
 Drugs/Alcohol Abuse (35)
 Housing (23)*
 Crime (18)
 Transportation (17)*
 Pollution/Environment (16)

First Quarter 1990 Quarterly Report
(TBF Ex. 33, Tab H, P. 263)

Crime
 Drug/Alcohol Abuse
 Education/Schools*
 Health Care*
 Pollution/Environment

First Quarter 1990 Ascertainment Tabulation
(TBF/Glendale Joint Ex. 2, P. 12)

Drug/Alcohol Abuse (35 mentions)
 Transportation (32)*
 Pollution/Environment (28)
 Crime (15)
 Housing (14)*

These discrepancies show that there were many instances in which TBF failed to cover issues of importance to the community because it failed to recognize issues that its own ascertainment procedures demonstrated were important community issues.

B. Local Programming

As detailed in ¶¶149-158 of the I.D., the primary local programs TBF relied upon in support of its renewal expectancy showing were Feedback (replaced for a portion of the renewal period by South Florida Public Report) and Miami Praise the Lord. A close review of the quarterly reports shows, however, that during much of the renewal period, those programs rarely

dealt with important community issues (as determined by TBF's ascertainment).

A review of TBF's quarterly reports shows that Feedback or South Florida Public Report were mentioned the number of times listed below in the quarterly reports as being responsive to top community issues:

First Quarter 1987 -	4 ¹
Second Quarter 1987 -	0
Third Quarter 1987 -	4
Fourth Quarter 1987 -	5
First Quarter 1988 -	1
Second Quarter 1988 -	3
Third Quarter 1988 -	4
Fourth Quarter 1988 -	3
First Quarter 1989 -	1
Second Quarter 1989 -	5
Third Quarter 1989 -	9
Fourth Quarter 1989 -	6
First Quarter 1990 -	11
Second Quarter 1990 -	6
Third Quarter 1990 -	5
Fourth Quarter 1990 -	3
First Quarter 1991 -	6
Second Quarter 1991 -	9
Third Quarter 1991 -	12
Fourth Quarter 1991 -	10

A review of TBF's quarterly reports shows that segments from Miami Praise The Lord was mentioned the number of times listed below in the quarterly reports as being responsive to community issues:

First Quarter 1987 -	5 ²
Second Quarter 1987 -	6

¹ This count excludes programs broadcast only in January 1987, before the renewal period began. See Tr. 438-439.

² This count excludes programs broadcast only in January 1987, before the renewal period began. See Tr. 438-439.

Third Quarter 1987 -	7
Fourth Quarter 1987 -	4
First Quarter 1988 -	5
Second Quarter 1988 -	12
Third Quarter 1988 -	4
Fourth Quarter 1988 -	3
First Quarter 1989 -	8
Second Quarter 1989 -	5
Third Quarter 1989 -	5
Fourth Quarter 1989 -	6
First Quarter 1990 -	6
Second Quarter 1990 -	6
Third Quarter 1990 -	10
Fourth Quarter 1990 -	18
First Quarter 1991 -	14
Second Quarter 1991 -	1
Third Quarter 1991 -	2
Fourth Quarter 1991 -	9

In the quarterly reports, the "Duration" column refers to the duration of the program, which is not necessarily the duration of the interview or feature described. For the quarterly reports covering October 1990 through December 1991, the "Topic Segment Duration" figure lists the length of the interview or segment being described. TBF/Glendale Joint Ex. 4, P. 5. In preparing the quarterly reports, the Public Affairs Director would write a paragraph describing the treatment of that issue for insertion in the quarterly report. Programs that dealt with one of the top issues in sufficient length, during those programs, would be listed in a quarterly report if a paragraph could be written describing how the issue was treated. TBF/Glendale Joint Ex. 4, P. 2.

C. Failure to Cover Important Issues

The record concerning renewal expectancy demonstrates that TBF frequently failed to respond to issues that its

ascertainment processes showed to be important issues. TBF's goal was to have four or five locally produced programs on each of the issues listed in the front page of the quarterly report. TBF/Glendale Joint Ex. 4, P. 3. If an issue was one of the top five ascertained issues, the station attempted to cover that issue, regardless of what the issue was. Id. The top five problems would be covered about equally during a calendar quarter. TBF Ex. 33, P. 14. Ms. Robin Downing, who was responsible for TBF's public affairs programming during much of the renewal period, claims that it was her job to ensure that all the problems mentioned during each calendar quarter received some response during that quarter. Id. Up to twenty-five issues were mentioned in TBF's ascertainment tabulations in each quarter. See TBF/Glendale Joint Ex. 2. There is no record evidence that TBF offered regular local programming responsive to issues not among the top issues mentioned in the quarterly reports. TBN's first priority in scheduling guests would be to treat the top five problems identified by all TBN stations. The top five problems were pretty much treated equally. TBN would then schedule guests to treat other problems mentioned on the lists for each station. TBF Ex. 34, P. 4.

The only documents which show how WHFT treated issues of community importance are the quarterly reports. TBF Ex. 33, Tabs H and HH. According to the quarterly reports, the following top community issues (according to TBF's

ascertainment tabulations) were not the subject of any programming during the quarter in which they were ascertained to be top issues:

First Quarter 1987	-	Mass Transit
Fourth Quarter 1987	-	Homeless
First Quarter 1988	-	Youth/Children
		Traffic
		Population/Growth
Second Quarter 1988	-	Pollution/Environment
Third Quarter 1988	-	Transportation/Traffic
		Growth/Population
Fourth Quarter 1988	-	Population/Growth
First Quarter 1989	-	Growth/Population
Second Quarter 1989	-	Health Care
		Housing
		Transportation
Fourth Quarter 1989	-	Senior Citizens/Elderly
First Quarter 1990	-	Housing
		Homeless

For the quarters listed below, the following top ascertained issues were covered in only one or two programs in that quarter.

First Quarter 1987: 1. Crime/Pornography - The only program listed is a two-part Feedback on pornography. Tab H³, P. 7.

Ethnic Groups/Immigration/Discrimination - Neither of the two programs listed were local programs. Tab H, P. 21.

Economy/Cost of Living/Unemployment - One of the two programs listed was an interview with the President of Goodwill Industries in Orange County, CA. Tab H, P. 25.

³ All references in this section are to TBF Ex. 33.

Child Abuse - Only one interview is listed for this issue. Tab H, P. 26.

Second Quarter 1987: 1. Discrimination/Minority Groups - One of the two programs listed was an interview with an author who grew up in Mississippi. Tab H, P. 35.

Housing - The only program listed is an interview on Joy with the founder of Sheppard Ministry, which has no apparent connection to Miami. Tab H, P. 39.

Third Quarter 1987 - Transportation - Only one interview covered that subject. Tab H, Pp. 62-63.

Fourth Quarter 1987 - 1. Cost of Living/Inflation - The only programs listed for that issue is an interview on the 700 Club concerning an organization with no apparent connection to Miami and a general feature on the national economy. Tab H, Pp. 75-76.

Transportation - One of the two programs listed discusses transportation in Orange County, California. Tab H, P. 86.

First Quarter 1988 - Education/Schools - Both of the listed programs deal with creationism in the public schools. Tab H, P. 109.

Second Quarter 1988 - Education/Schools - Only one interview on Miami Praise the Lord is listed as dealing with this issue. Tab H, Pp. 124-125.

Fourth Quarter 1988 - Cost of Living - The only program listed dealing with this issue is an interview with Rev. E.V. Hill concerning his ministry in Los Angeles. Tab H, P. 162.

First Quarter 1989 - Crime - Tab H, P. 186.

Second Quarter 1989 - Pollution/Environment - Neither of the programs listed were local programs. Tab H, Pp. 215-216.

Third Quarter 1991 - Homeless - One of the programs listed is an interview with the founder of a shelter that does not appear to be in Florida. Tab HH, Pp. 143-144.

According to TBF's quarterly reports, it was more common for TBF to have no local programming whatsoever on an issue in a given quarter than it was for TBF to meet its stated goal of having four local programs each quarter on each top issue. As noted above, there were sixteen instances in which TBF offered no programming whatsoever on a top issue in a quarter. In addition, there are nineteen additional instances (for a total of thirty-five) in which no local programming was listed for an issue in a quarter. Local programs would include Miami Praise the Lord, Feedback, and South Florida Public Report. The issues in question are:

First Quarter 1987 - Ethnic Groups/Immigration/
Discrimination (H, 21)⁴
Housing (H, 24)

Second Quarter 1987 - AIDS (H, 32-33)
Crime (H, 33-34)

Third Quarter 1987 - Cost of Living (H, 50)
Discrimination/Minority Groups
(H, 52-54)
Education (H, 56-58)

Fourth Quarter 1987 - Cost of Living (H, 75-76)
Health Care (H, 82-86)

⁴ The matter inside the parenthesis means TBF Ex. 33, Tab H, P. 21.

<u>First Quarter 1988</u>	-	AIDS (H, 99-100) Discrimination (H, 103-105)
<u>Third Quarter 1988</u>	-	Education (H, 145-147) Senior Citizens/Aging (H, 152-153)
<u>Fourth Quarter 1988</u>	-	Cost of Living/Poverty (H, 162) Health Care (H, 164-166) Youth, Children (H, 166-168) Education (H, 169-172)
<u>First Quarter 1989</u>	-	Health Care (H, 192-195)
<u>Second Quarter 1989</u>	-	Pollution/Environment (H, 215-216)

By contrast, there are only twenty-one instances in which TBF offered four or more local programs on an issue in a given quarter. Those issues are:

<u>Third Quarter 1987</u>	-	Youth (H, 63-64)
<u>Second Quarter 1989</u>	-	Drugs/Alcohol (H, 209-211)
<u>Third Quarter 1989</u>	-	Crime (H, 230-232) Drug/Alcohol Abuse (H, 233-235)
<u>Fourth Quarter 1990</u>	-	Crime (H, 265-267)
<u>Third Quarter 1990</u>	-	Crime (HH, 3-5) Drug/Alcohol Abuse (HH, 6-7)
<u>Fourth Quarter 1990</u>	-	All issues except education (<u>see</u> HH, 49)
<u>First Quarter 1991</u>	-	All five issues
<u>Third Quarter 1991</u>	-	Education (HH, 139-142)
<u>Fourth Quarter 1991</u>	-	Drug/Alcohol Abuse (HH, 158-160) Cost of Living/ Inflation/ Economy/ Poverty (HH, 165-167) Homeless (HH, 167-168)

D. Nonresponsive Programming

Many of the programs listed in TBF's quarterly reports were not in fact responsive to the needs and interests of the Miami area as ascertained by TBF. For example, a large number of the programs listed in the quarterly reports are interviews with persons in southern California (TBF's headquarters) or elsewhere concerning issues in those communities. TBF failed to show any connection between the needs and problems of those areas and the needs and problems of the Miami area.

The majority of the programs listed in TBF's quarterly reports dealing with the issue of drug and alcohol abuse are descriptions of personal religious experiences by former addicts and abusers. The programs generally follow a pattern: the person talks about how they became addicted to drugs or alcohol. They then describe how they became free of their addiction by accepting Jesus Christ into their lives. Oftentimes, the persons then describe how they are ministering to others. Interviews that follow that general format occurred on the following shows:

Miami Praise the Lord: 2/13/87 (H,3), 3/15/87 (H,3), 8/21/87 (H,54), 10/30/87 (H,79), 1/22/88 (H,105), 7/8/88 (H,142), 12/2/88 (H,159), 1/13/89 (H,182), 2/24/89 (H,181), 4/28/89 (H,210), 5/5/89 (H,209), 6/16/89 (H,210), 7/7/89 (H,233), 5/25/90 (H,291), 7/13/90 (HH,6), 8/17/90 (HH,7), 11/30/90 (HH,31) 12/7/90 (HH,31-32), 3/15/91 (HH,69), 4/19/91

(HH,100), 9/20/91 (HH,129), 12/3/91 (HH,159), 12/13/91 (HH,159).

The 700 Club: 11/17/87 (H,80), 4/7/88 (H,121), 10/21/88 (H,160), 1/6/89 (H,182-183), 1/13/89 (H,183), 6/1/89 (H,213), 7/28/87 (H, 236), 10/9/89 (H, 255), 1/4/90 (H, 270), 3/5/90 (H,270), 4/12/90 (H,292), 7/10/90 (HH,8), 7/12/90 (HH,9-10), 10/12/90 (HH, 36-37), 10/18/90 (HH,36), 11/14/90 (HH,35), 1/3/91 (HH,76), 1/16/91 (HH,76-77), 1/17/91 (HH, 74-75), 1/21/91 (HH,102), 6/18/91 (HH,102), 6/20/91 (HH,101), 7/2/91 (HH,138), 7/3/91 (HH,136-137), 7/10/91 (HH,135), 7/11/91 (HH, 135-136), 7/18/91 (HH,137), 8/12/91 (HH,133), 8/20/91 (HH,133), 8/22/91 (HH,131-132), 8/23/91 (HH,132), 10/4/91 (H,162-163), 11/14/91 (HH,163), 11/20/91 (HH,163), 12/9/91 (HH,163-164), 12/12/91 (HH,164).

Praise the Lord: 1/19/88 (H,106), 1/25/88 (H,107), 2/19/88 (H,107-108), 2/29/88 (H,108), 5/26/89 (H,211), 8/14/89 (H,235-236), 10/11/89 (H,254), 10/30/89 (H,254-255), 6/22/90 (H,293), 8/3/90 (HH,10), 8/8/90 (HH,12), 8/17/90 (HH,9), 10/29/90 (HH,37) 12/27/90 (HH,35), 12/10/90 (H,33), 1/7/91 (HH,77), 3/5/91 (HH,72), 3/13/91 (HH,72), 12/13/91 (HH,161-162).

Joy: 8/12/87 (H,55), 1/27/88 (H,107), 10/6/88 (H,159), 11/24/88 (H,160-161), 12/1/88 (H,161), 4/18/90 (H,292), 8/6/90 (HH,10), 12/3/90 (HH,33-34), 8/9/91 (HH,133-134), 8/23/91 (HH,132).

Treasures Out of Darkness: 1/5/91 (HH,75-76), 4/27/91 (HH,106), 6/1/91 (HH,103), 8/3/91 (HH,138), 8/10/91 (HH,134-135), 8/17/91 (HH,135), 8/24/91 (HH,134), 10/19/91 (HH,160), 11/23/91 (HH,161).

Feedback: 8/24/89 (H,234).

Calling Dr. Whitaker: 7/20/90 (HH,11).

Highway to Heaven: 2/7/91 (HH,75).

A Date with Dale: 5/16/91 (HH,104).

Several of the programs TBF lists under the crime issue are also interviews describing personal religious experiences of former criminals. These programs include:

Miami Praise the Lord: 3/11/88 (H,102), 1/23/89 (H,186), 2/2/90 (H,265), 5/11/90 (H,280), 5/18/90 (H,290), 8/10/90 (HH,4), 9/28/90 (HH,4-5), 11/30/90 (HH,45), 2/9/91 (HH,66), 10/29/91 (HH,157).

The 700 Club: 6/9/87 (H,34), 5/19/87 (H,51-52), 4/15/91 (HH,100), 7/15/91 (HH,128), 11/25/91 (HH,158).

Praise the Lord: 8/7/87 (H,51), 11/19/87 (H,78).

Joy: 6/1/88 (H,118), 7/29/91 (HH,127-128).

Treasures Out of Darkness: 4/13/91 (HH,99), 7/6/91 (HH,128), 9/14/91 (HH,127).

For the reasons explained by the Presiding Judge below, descriptions of personal religious experiences are not relevant to renewal expectancy because they are not the type of objective matters considered by the Commission. See Tr. 121-132. Accordingly, while some of TBF's religious

programming is relevant to its renewal expectancy showing, these programs are not issue responsive programming for which renewal expectancy credit may be sought.

These additional findings demonstrate that there were many problems with TBF's programming during the renewal period. There was no close connection between the ascertainment process and the programming. Only two local programs dealt with community issues, and many of those specific programs did not cover the top ascertained issues that TBF was supposedly attempting to cover. Many top community issues (as determined by TBF's ascertainment) were not covered at all, were minimally covered, or were not covered by any local programming. Much of the programming TBF relies upon was not responsive to the needs and interests of Miami. When these deficiencies are combined with the egregious and pervasive misconduct chronicled in the I.D., there is no basis for awarding TBF a renewal expectancy.

IV. CONCLUSION

Glendale urges the Review Board to fully affirm the Initial Decision on the basic qualifications issues specified against TBF and Glendale. The decision is fully supported by the evidence and the law. Glendale therefore believes it will be unnecessary for the Review Board to reach the question of whether TBF is entitled to a renewal expectancy. If, for some reason, the Board does reach that question, Glendale urges the Board to take into consideration the findings of fact noted

above and conclude that TBF is not entitled to a renewal expectancy.

Accordingly, Glendale asks the Review Board to affirm the grant of its application and the denial of TBF's renewal application.

Respectfully submitted,

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Date: January 23, 1996

CERTIFICATE OF SERVICE

I, Martin Tansey, a legal assistant employed by Bechtel & Cole, Chartered, do hereby certify that on the 23rd day of January, 1996, a copy of the foregoing "Statement in Support of Initial Decision and Contingent Exceptions and Brief" was sent first-class mail, postage prepaid to the following:

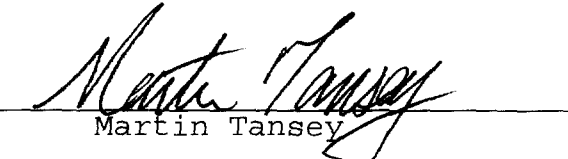
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